IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NOs.13884, 13887, 13914, 13926, 13960, 13961, 13969 AND 13970 OF 2004

IN W.P.No.13884 of 2004:

Between:

G. Venkateshwar Rao S/o. Raghavaiah
Thullur Village & Mandal, Guntur District.

..... PETITIONER

AND

1 The State Govt. of A.P., rep. by its Secretary, Secretariat, Hyd.
2 The Regional Joint Commissioner, Endowments, Tirupati.
3 The Executive Officer, Sri Venugopala Swamy Temple, Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the State Government and while the standing Crop is existing in the land in S.NO.250& 248/2, admeasuring Ac. 9.33 Cents & Ac.3.51 Cents of Sree Venugopala Swamy Temple, Thullur Village & Mandal, Guntur

District, is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 06.08.2004 and dispossess the petitioner from the land.

WRIT PETITION NO : 13887 of 2004

Between:

G. Venkata Subbulu, W/o. Late Sita Ramaiah,
Thullur Village & Mandal, Guntur District.

..... PETITIONER

AND

1 The State Govt. of A.P. rep by its Secretary, Endowments Dept., Secretariat, Hyderabad.
2 The Regional Joint. Commissioner, Endowments, Tirupati.
3 The Executive Officer, Sri Veerabhadra Swamy Temple, Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conduction auction pending disposal before the State Government and while the standing crop is existing in the land admeasuring Ac. 5.25 Cents of Sree Veerabhadra Swamy Temple, Thullur Village & Mandal, Guntur District, is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 6-8-2004 and dispossess the petitioner from the land and.

WRIT PETITION NO : 13914 of 2004

Between:

G.Sambasiva Rao, S/o.Venkata Subbaiah,
Thullur Village & Mandal, Guntur Dist.

..... PETITIONER

AND

1 The State of Govt. of A.P., rep.by its Secretary, Endowments Dept.,Secretariat, Hyderabad.
2 The Regional Joint. Commissioner, Endowments, Tirupati.
3 The Executive officer, Sri Veerabhadra Swamy Temple,
Thullur village & Mandal, Guntur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the state Government and while the standing crop is existing in the land admeasuring Ac.7-921/2 cents of Sree Veerabhadra Swamy Temple, Thullur Village & Mandal, Guntur Dist. is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 06-08-2004 and dispossess the petitioner from the land.

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WRIT PETITION NO : 13926 of 2004

Between:

Madala Sreeramamma, W/o. Rosaiah
Opp. Telephone Exchane, Thullur Village & Mandal,
Guntur District.

..... PETITIONER

AND

1 The State Government of A.P., rep. by its Secretary, Endowments Dept.,
Secretariat, Hyderabad.
2 The Regional Joint Commissioner, Endowments, Tirupathi.
3 The Executive Officer, Sri Anjaneya Swamy Temple,
Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the State Government and while the standing crop is existing in the land in Sy. No. 243/1, 262, admeasuing Ac.6. 30 Cents and Ac. 3.00 Cents of

Sree Anjaneya Swamy Temple, Thullur Village & Mandal, Guntur District is contrary to fuidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 06.08.2004 and dispossess the petitioner from the land.

WRIT PETITION NO : 13960 of 2004

Between:

M. Sambasaiva Rao, S/o. Late Venkatapathi Rao
R/o. Malkapuram Vill, Thullur Mandal, Guntur District.

..... PETITIONER

AND

1 The State Govt of A.P., rep. by its Secretary, Secretarit, Hyderabad.
2 The Regional Joint Commissioner, Endowments, Tirupathi.
3 The Executive Officer, Sri Malleswara Swamy Temple,
Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order of direction more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the state Government and while the standing Crop is existing in the land admeasuring Ac. 4.06 Cents of Sri Malleswara Swamy Temple, Velagapudi village, Thullur Mandal, Guntur Dist is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 7.8.2004 and dispossess the petitioner from the land .

WRIT PETITION NO : 13961 of 2004

Between:

M. Seshagiri Rao S/o Late Venkatapathi rao
R/o Malkapuram Village Thullur Mandal, Guntur District

..... PETITIONER

AND

1 The State Government of A.P., rep by Secretary, Endowments Dept., Secretariat, Hyderabad
2 the Regional Joint Commissioner Endowments, Tirupati

3 The Executive Officer, Sri Malleswara Swamy Temple Thullur Village & Mandal Guntur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the State Government and while the standing crop is existing in the land admeasuring Ac. 4.08 cents of Sri Malleswara Swamy Temple, Velagapudi Village, Thullur Mandal, Guntur District, is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 07-08-2004 and dispossess the petitioner from the land.

WRIT PETITION NO : 13969 of 2004

Between:

M. Davanamma, w/o Late Venkatapathi Rao,
R/o Malkapuram Village, Thullur Mandal, Guntur District.

..... PETITIONER

AND

1 The State Government of Andhra Pradesh, rep. by its Secretary, Endowments Department, Secretariat, Hyderabad.
2 The Regional Joint Commissioner. Endowments, Tirupati.
3 The Executive Officer, Sri Malleswara Swamy Temple,
Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the State Government and while the standing crop is existing in the land admeasuring Ac. 4.08 cents of Sri Malleswara Swamy Temple, Velagapudi Village, Thullur, Guntur District, is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 7-8-2004 and dispossess the petitioner from the land.

WRIT PETITION NO : 13970 of 2004

Between:

M. Deshinga Rao, S/o. Late Venkatapathi Rao,

R/o. Malkapuram Village Thullur Mandal, Guntur District.

..... PETITIONER

AND

1 The State Government of A.P. Rep. by its Secretary, Endowments Department, Secretariat, Hyderabad.
2 The Regional Joint Commissioner, Endowments, Tirupathi.
3 The Executive Officer, Sri Malleswara Swamy Temple, Thullur Village & Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents herein conducting auction pending appeal before the State Government and while the standing crop is existing in the land admeasuring Ac. 4.08 Cents of Sri Malleswara Swamy Temple, Velagapudi(V), Thullu Mandal, Guntur District, is contrary to guidelines, illegal, arbitrary and unethical and consequently direct the respondents not to conduct auction on 07-08-2004 and dispossess the petitioner from the land.

Counsel for the Petitioner in all WPs. : MR.A.RAGHAVAIAH

Counsel for the Respondents in WPs: GP FOR ENDOWMENTS

The court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NOs.13884, 13887, 13914, 13926, 13960, 13961, 13969 AND 13970 OF 2004

COMMON ORDER :

All these writ petitions are filed aggrieved by the action of the third respondent in proposing to conduct the auction in respect of the leasehold rights of the lands

belonging to the third respondent temple as arbitrary and illegal.

The petitioners claim to be the cultivating tenants in respect of different extents of land belonging to the third respondent temple. Admittedly, under the orders passed by the Executive Officer of the third respondent temple in terms of Rule 5(1) of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short, 'the Rules'), the petitioners were intimated that their tenancy stood terminated and they were directed to hand over the possession of the land in question. However, the petitioners made a claim before the Assistant Commissioner of Endowments claiming that they are landless poor persons and therefore entitled to the benefits of sub-section (2) of Section 82 of A.P. Charitable & Hindu Religious Institutions & Endowments Act, 1987 (for short, 'the Act'). Their claim was rejected by the Assistant Commissioner of Endowments. The Appeals filed before the Regional Joint Commissioner, Tirupati were also dismissed. In pursuance thereof, the third respondent is taking steps to put the leasehold rights of the lands in question to public auction. Challenging the same, these writ petitions are filed seeking a declaration that the proposed auction is arbitrary and illegal. The petitioners also stated that against the orders of the Regional Joint Commissioner dismissing their Appeals, they filed Revision Petitions before the Government under Section 93 of the Act and till the disposal of the Revision Petitions, the third respondent temple cannot be permitted to put the leasehold rights to auction. It is also pleaded that there is standing crop on the lands in question.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents 1 and 2 and the learned Standing Counsel appearing for the third respondent temple.

The learned Standing Counsel for the third respondent temple contended that since under Rule 4 of the Rules the order of the Regional Joint Commissioner passed in an Appeal against the order of the Assistant Commissioner of Endowments is final, no further appeal or revision under Section 93 of the Act is maintainable and

therefore the contention of the petitioners to protect their possession till the disposal of the Revision Petitions said to have been filed by them under Section 93 of the Act is untenable and misconceived.

However, the learned Counsel for the petitioners contended that the Revision Petitions are maintainable since the Rules made by the Executive, by way of subordinate legislation cannot run contrary to the main statute and therefore the remedy provided under Section 93 of the Act is available notwithstanding the finality given under Rule 4 of the Rules.

I am not inclined to enter into the issue as to the maintainability of the Revision Petitions filed by the petitioners. It is always open to the 3rd respondent temple to contest the Revision Petitions, urging all the points as available under law including the question with regard to the maintainability of the revisions.

Accordingly, without expressing any opinion on merits, the Writ Petitions are disposed of with a direction to the 1st respondent to dispose of the revision petitions filed by the petitioners as expeditiously as possible preferably within a period of eight weeks from the date of receipt of this order. Till the disposal of the revision petitions, the respondents are directed not to put the leasehold rights of the lands in question to auction subject to the condition that the entire arrears of maktha in respect of the lands in question are cleared by the petitioners within four weeks from today and the petitioners shall also continue to pay the lease amount regularly at the rate of market rent payable for similarly placed lands. It is made clear that in case of default, it is open to the respondents to take the necessary steps in accordance with law.

Writ Petitions are accordingly disposed of. No order as to costs.

15th September, 2004.

Note:- Office is directed to put

Up a copy of this common order

In W.P.Nos.13887, 13914, 13926,

13960, 13961,13969 & 13970 of 2004.

(B/O)

gbs

To

1 The State Government of A.P. Rep. by its Secretary, Endowments Department, Secretariat, Hyderabad.
2 The Regional Joint Commissioner, Endowments, Tirupathi.
3 The Executive Officer, Sri Malleswara Swamy Temple, Thullur Village & Mandal, Guntur District.

4. Two CCs to G.P. for Endowments, High Court of AP. Buildings, Hyderabad(OUT).